

## *Bay Area Watershed Network Policy Working Group*

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April 24, 2010

Re: Docket Number COE-2010-0007

Dear Mr. Wade,

The Bay Area Watershed Network writes in response to the recently published regulations in the Federal Register for the “Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls” (docket number COE-2010-0007).

The Bay Area Watershed Network is a collaboration of all levels of government agencies, including watershed partnerships, resource conservation districts, non-profit organizations, and consulting firms, who work together to address environmental restoration, protection, planning, and assessment projects in the nine-county San Francisco Bay Area. A Policy Working Group of this network, composed of the signatures on this letter, is writing to express its deep concern with the proposed changes in the regulations for maintaining vegetation on streamside levees.

The variance is intended to provide the opportunity for some exceptions to the vegetation standards contained in the U.S. Army Corps of Engineers Technical Letter 1110-2-571, which contains mandatory maintenance standards that, if not followed, endanger a community’s certification under the National Flood Insurance Program and risk the loss of “Active Status” in the Corps Rehabilitation Inspection Program. The Engineering Technical Letter essentially prohibits vegetation from most of the cross-section of a levee and adjacent areas.

The adoption of these standards conflicts with the practices of our members to design high quality, multi-objective projects that reduce flood damage and restore rivers, often in partnership with the Army Corps of Engineers. These projects are self-mitigating because they include streamside levee vegetation. In some cases, project sponsors have acquired expensive, wider rights of way, or raised bridges, or corrected other hydraulic constrictions to accommodate on-site mitigation of habitat along levees. Many have developed multi-objective project-specific management plans using interagency watershed partnerships to arrive at maintenance activities which the regulatory agencies will allow to be permitted. Most projects have built habitat needs into their designs as an essential component to the permitting of the projects. While the general public of the San Francisco Bay area is concerned with public safety issues, this same public is equally concerned with protecting and restoring riparian and stream corridor habitats, water quality, and protecting our threatened and endangered anadromous fish populations. We understand that our obligation to our public is to provide a reasonable balance between safety and environmental quality. This policy does not support the balanced approach stakeholders must deliver if we are to be realistic.

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The proposed regulations assume that environmental quality is in direct conflict with public safety. There is inadequate research on the relationship of vegetation and levee stability to support an informed national policy on vegetation management for public safety. The Bay Area Watershed Network recommends that the federal/non-federal research collaborative formed to address the issues of riparian corridors and levees, coordinated through the California Levees Roundtable, be allowed to conclude its research before new federal standards are adopted. This research is being conducted with the U.S. Army Corps Engineering Research and Development Center.

The prospect of the Corps issuing new regulations requiring millions of dollars of local expenditures to clearcut the environmental investments in stream corridors made by our local governments places our agencies and organizations into irresolvable conflict. We urge a more productive approach to this public safety issue.

Sincerely,

The Bay Area Watershed Network

180 members at 108 organizations, agencies, governments, firms, and districts

Copies:

U.S. Senator Barbara Boxer

Senate Environment and Public Works Committee

Nancy Sutley, Council of Environmental Quality